NOTES FOR A STATEMENT
TO THE LEGISLATIVE ASSEMBLY
BY THE HONOURABLE DENNIS PATTERSON,
MINISTER FOR ABORIGINAL RIGHTS AND
CONSTITUTIONAL DEVELOPMENT

ON

THE EXECUTIVE COUNCIL POSITION
ON THE COPE FINAL AGREEMENT

FEBRUARY 9, 1984

Mr. Speaker, I would like to take this opportunity to advise the House of the Executive Council's position on the Final Agreement between COPE and the Government of Canada initialled on December 19, 1983.

As members are aware an Agreement-in -Principle was signed in October, 1978, and negotiation towards a Final Agreement had been off and on between then and 1982. This latest round of negotiation began in the fall of 1982, with the appointment of a new chief federal negotiator. After a series of clarification and familiarization meetings, serious and intense negotiations began in early 1983. The GNWT participated as a member of the federal team and had a fulltime representative in attendance.

After a thorough review of the Agreement-in-Principle, the Executive Council identified a list of six major issues which affected the authority of the Legislative Assembly and the overall responsibility of the GNWT, and which it felt had to be addressed in the Final Agreement. I would now like to take a moment to explain these issues:

1. **Sand and Gravel**

   Sand and gravel is a necessary and valuable commodity in the Western Arctic Region and in some cases good quality and accessible material can be scarce. The Executive Council wanted to ensure that sufficient quantity and quality to meet community and municipal needs at a reasonable price

would be guaranteed in cases where the Inuvialuit had a monopoly or near-monopoly.

The Final Agreement provides for a system of price control, guarantee of supply and priority of allocation. In the case of excessive pricing or where sand and gravel is being provided in an inefficient or unreliable manner the Minister may cancel the operation and offer it up on a competitive bid basis.

2. Access

The communities of Tuktoyaktuk, Paulatuk, Sachs Harbour, and Holman Island are surrounded by Inuvialuit Lands. We were concerned that this could have meant that non-Inuvialuit would not be able to use these lands for recreation purposes, to gain access to lakes in order to fish or to cross unto Crown Lands. There were also situations where Crown Lands were cut off from the sea coast by Inuvialuit Lands which could deny developers reasonable access in order to exercise their rights. The acquisition of Inuvialuit Lands for public roads rights of way would, in the event of dispute require expropriation by the Federal Cabinet - a cumbersome and impractical route.

The Final Agreement provides public access for recreational

purposes on and across Inuvialuit Lands, to fish in lakes within Inuvialuit Lands and to cross Inuvialuit Lands to exercise a right on Crown Lands. A simple system to permit government to appropriate land for public road rights of way is provided.

3. **Lands Reserved for Indians**

The concern here revolved around the possibility that Inuvialuit Lands might be declared by a court to be "Lands Reserved for Indians" pursuant to Section 91(24) of the **Constitution Act 1867**. Should this have been the case, the applicability of Territorial Ordinances to those lands would be questionable. This does not mean that Inuvialuit Lands would be an enclave within which no ordinances would apply but a complex situation could have been created where some may apply and some may not.

The Agreement contains two provisions to deal with this issue. One states that all Territorial laws and ordinances that apply generally to private lands shall apply to Inuvialuit Lands and the other states that Inuvialuit Lands "shall be considered, accepted and deemed not to be lands reserved for Indians."

4. Community Sites/Municipal Lands

The Agreement-in-Principle defines a site for the communities of Aklavik, Tuktoyaktuk, Paulatuk, Sachs Harbour, and Holman Island. We were concerned that these sites may not be large enough in some cases to accommodate future community expansion or the need for municipal infrastructure.

The Agreement provides for the acquisition of Inuvialuit Lands required for the provision of a governmental service for nominal rent through bilateral negotiations. In the event this route is not successful the matter can be referred to an arbitration board for a decision.

The Executive Council feels that the provisions which I have generally outlined adequately addresses these four items.

5. Financial Implication to the GNWT

The GNWT has a number of obligations under the settlement which will require significant financial outlay. The Executive Council's position was that as this is an agreement between two parties - Canada and the Inuvialuit - then the federal government must be prepared to compensate the GNWT for any extra costs.

The federal government has accepted our arguments and agreed to provide extra funding. An initial cost analysis has been completed and, we are assured, will be included in the Cabinet Document seeking approval of the agreement.

6. **Overlap**

Both the Dene/Metis and the Inuit of the east have expressed concern with regard to overlap since the Agreement-in-Principle was signed. The Executive Council took the position that these overlap concerns must be resolved before an agreement can be finalized.

With respect to this Final Agreement the Executive Council acknowledges the Dene/Metis position that their concerns on the matter of overlap have not been adequately addressed. The Minister of Indian Affairs and Northern Development made a commitment to the Dene/Metis that "a final agreement between COPE and the Government will be contingent upon solution of the problem of overlapping claims" (letter of August 22, 1980, to the President, Dene Nation). The Executive Council takes the position that the Minister must honour this commitment so as to be fair to both the Dene/Metis and COPE without unduly delaying the approval process for the Final Agreement.

I have touched only on the major issues and this is not to suggest that these are the only matters that we had an interest in. In fact there were very few subjects on which the GNWT was not required to develop a point of view and promote provisions which accommodated our special concerns. The document consists of 291 pages and members can appreciate that considerable judgment and compromise by our representative was required in order to achieve agreement.

Given the magnitude of the task, it is impossible to get an agreement that will completely satisfy everyone and all interested parties will, no doubt, be left with some concerns. This is the nature of negotiations and in the end, judgment can only be responsibly made on the basis of balance.

Mr. Speaker, I am pleased to announce today, with the proviso that the federal government must exercise its responsibility to ensure a fair and timely resolution of overlap, that the N.W.T. Executive Council endorses the Final Agreement and recommends speedy approval by the Federal Cabinet.

I would like to make a few comments on the matter of the 10 percent preference which has been causing controversy in the press - mainly from outside the N.W.T. I might add. I believe that there has been considerable confusion

around this issue and I want to clarify it for the House. Very simply, within the Inuvialuit Settlement Region, the Inuvialuit will have a 10 percent preference in price measured by reference to the lowest bid or competitive market price in the case of:

1. Federal government contracts.
2. Federal government purchasing.
3. Contracts or purchasing by "Chosen Instruments" of the federal government (where the federal government designates an agent).

Unfortunately, in our view, much of the controversy around this issue arises from a misinterpretation of the intent of the provision - namely that it required third parties, such as oil or mining companies operating in the area to give a 10 percent preference to the Inuvialuit. I have been assured that this is not the case and the provision has the very narrow application I just stated. In our view, the preference will provide economic benefits for the entire small business sector of the Western Arctic Region by giving many local businesses an advantage not now enjoyed by any. At the moment no northern business enjoys a preference from the federal government. The economic spin off from any increase in Inuvialuit business enterprises will surely have a positive impact on the entire business sector. It must be kept in mind that the preference will apply in the case of joint ventures where Inuvialuit have a 51 percent interest or

higher, which means that non-Inuvialuit businessmen will also be able to benefit directly from the preference.

I must acknowledge the frustration of members in not being able to get copies of the Agreement. This is a provision laid down by the federal government which we are attempting to get changed and whether we are successful or not I will provide an opportunity, in the very near future, for members to be briefed by my officials and the COPE negotiator.

The settlement of this claim, Mr. Speaker, marks an historic event in the N.W.T. It represents years of hard work and dedication by many individuals. COPE is to be congratulated for its leadership, courage and determination in pursuing this agreement under, at times, very difficult circumstances. I am convinced that the settlement is just and fair to all parties and will provide an impetus to the other two claims which remain to be settled.

This House can also take pride in having played a significant role. The agreement could not have been achieved without the positive and constructive participation of the Territorial Government and I believe that our contribution was significant. The Executive Council was able to provide the necessary leadership to achieve this, in large part, because of

the conciliatory policies of the Ninth Assembly on the subject of Aboriginal Rights, the cooperative spirit promoted in working with aboriginal organizations and the direction provided by our policy in the Sessional Paper on Aboriginal Rights and Constitutional Development approved in the Spring of 1980.

In closing, Mr. Speaker, I feel that this is an achievement we can all be proud of. We have all stated on occasion, the importance of settling claims and the need for such settlements to be fair and just. With this agreement we see the realization of these aspirations for the Inuvialuit. Much work remains before the agreement is rendered into legislation and successfully implemented and I can assure members that the Executive Council will continue to participate in a constructive and supportive role, in keeping with the policy and direction of the House.

STATEMENT BY THE HON. JAMES WAH-SHEE
MINISTER RESPONSIBLE FOR ABORIGINAL RIGHTS AND CONSTITUTIONAL DEVELOPMENT
GOVERNMENT OF THE NORTHWEST TERRITORIES

IN RESPONSE TO THE ANNOUNCEMENT MADE BY
THE HON. JOHN MUNRO,, MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
ON NOVEMBER, 26, 1982

People of all northern cultures share the desire and determination that their homeland move as quickly as possible towards the goal of equal partners in confederation with full provincial status.

It is a message that this Assembly and many other responsible northern institutions have presented frequently and regularly to yourself, your predecessors, and many of your collegues over the years.

This message included the following points: that the Northwest Territories be divided into two distinct political jurisdictions, that public government in each area evolve at its own pace and in a manner acceptable to their residents, and that boundary proposals, the style and stucture of governments and divisions of power be developed by the citizens of the North and not be imposed by Ottawa.

Consequently, the news you bring us tonight is encouraging. The policy you have outlined goes a long way towards meeting the goals and objectives of northern people.

We are aware of some of the obstacles you had to overcome and that a considerable personal commitment was required. I join with my collegues in expressing our appreciation.

As you have obviously come to realize, this Assembly, the native organizations and northerners in general have not been idle while waiting for the Federal decision paper on constitutional development.

In the course of this year alone, the people of the North have voted in favour of division, the Assembly has formally accepted the result and has adopted its own position and has mandated a working group called the Northwest Territories Constitutional Alliance. This Alliance is providing a Forum to facilitate public participation in the process of political development, to develop a general proposal or blueprint for constitutional and political development acceptable to all and to negotiate the content of this proposal with the Federal Government on behalf of all northern people.

The constitutional Alliance will be meeting with Ministers in Ottawa some

time next week. What we will be requesting is formal recognition of the Alliance and the Forums and their mandate, the establishment of an official and structural relationship through which the Alliance and Forums would interface with the Federal Government on constitutional development in the North.

We hope that the Government of Canada recognizes that special funding will be required and is ready to respond positively to our request. We will be persuing this matter further during our Ottawa meetings.

I firmly believe the Minister's statement is a very large, positive step in the direction of responsible government in the NWT.

The fact that negotiations of land claims and the development of proposals for political evolutions can take place at the same time should promote progress in both areas. Let us not forget that progressive as the policy statement is, it does not include the transfer of any additional powers to the Northwest Territories. Provincial status is still around the corner - out of sight.

I know that the Assembly, the Alliance and the people of the North will make every effort to meet the pre-conditions required to qualify for provincial status. I trust that we will continue to receive the encouragement, understanding and support from the Federal Government that is vitally important if we are to succeed.